

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

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| Jacobson Companies, Petitioner-Appellant, v. Sioux City Board of Review, Respondent-Appellee. | ORDER Docket No. 11-107-1329 Parcel No. 8947-29-310-006 |
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On March 19, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Jacobson Companies was represented by David J. Stone of the National Bureau of Property Administration, Chicago, Illinois. Attorney Jack Faith represented the Board of Review. Both parties participated by telephone. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Jacobson Companies is the owner of property located at 1401 Tri View Avenue, Sioux City, Iowa. The real estate was classified commercial on the January 1, 2011, assessment. It was valued at \$1,185,400, representing \$143,100 in land value and \$1,042,300 in improvement value. Jacobson protested the assessment to the Sioux City Board of Review on the ground that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1).

The Board of Review denied the protest.

Jacobson then appealed to this Board. It asserts the correct value is \$977,000, allocated \$143,100 in land value and \$833,900 in improvement value. On its Notice of Appeal & Petition form,

Jacobson stated that it believed the “property assessment exceeds market value.” It appears Jacobson is attempting to make a claim of over-assessment under Iowa Code section 441.37(1)(a)(2). Under section 441.37A(1)(b), this Board cannot consider grounds which were not pled or raised to the Board of Review and therefore we only consider Jacobson’s equity claim.

According to the property record card, the subject property is an industrial warehouse with 49,000 square feet of total space built in 1965. The site is 2.147 acres.

David Stone testified on behalf of Jacobson. He offered three properties in support of its inequity claim. These properties are summarized below.

| | Subject | Comparable 1 | Comparable 2 | Comparable 3 |
|-------------------------|----------------|---------------------|---------------------|---------------------|
| Address | 1401 Tri View | 1153 Tri View | 4101 Hwy 75 North | 4505 Dustin Dr |
| Property Type | Warehouse | Warehouse | Warehouse | Warehouse |
| Total Square Ft | 49,000 | 167,500 | 109,940 | 32,580 |
| Warehouse | 49,000 | 112,290 | 106,400 | 32,580 |
| Office | 0 | 6,210 | 540 | 0 |
| Retail | 0 | 0 | 0 | 0 |
| Manufacturing | 0 | 0 | 600 | 0 |
| Other | 0 | 0 | 2,400 | 0 |
| Built/Remodeled | 1965 | 1972-1997 | 1959 | 1974 |
| Total Assessment | \$1,185,400 | \$3,338,900 | \$1,546,600 | \$645,900 |
| Total Assessment per SF | \$24.19 | \$28.18 | \$14.07 | \$19.83 |

In an effort to show the subject property was inequitably assessed, Stone compared the assessed value per square foot of the properties it believed were comparable properties to the subject property’s value per square foot. He did not make adjustments to account for age, size, or condition of the properties. Bases on these comparables, Stone believes the correct assessed value per square foot of the subject property is \$19, resulting in a total assessed value of \$931,000.

Stone testified none of the comparable properties recently sold.

The record also includes an analysis valuing the subject property using income approach to value. The analysis concludes the subject property’s value is \$977,000 by the income approach.

Without a showing that the assessor applied the income approach or any other assessing methodology in a non-uniform, this analysis is not relevant to an inequity claim.

The Board of Review did not offer any testimony.

Overall, Stone's analysis and evidence is insufficient for an equity claim. An equity analysis typically compares *prior year sale prices* (2010 sales in this case) to the *current year's assessment* (2011) assessment to conduct a sale-ratio analysis. Because there were no recent sales, no sale-ratio analysis could be developed.

For these reasons, we find Jacobson has failed to prove by a preponderance of the evidence that the subject property is inequitable assessed.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.

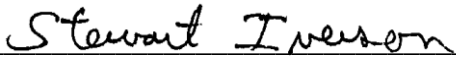
Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Jacobson did not contend the assessor applied an assessment method in a non-uniform manner to the subject property. Although Jacobson compared the subject's assessed value per square foot with properties it deemed comparable, it did not offer any evidence of recent sales of those properties to


conduct a sale-ratio analysis as contemplated by *Maxwell*. Altogether, Jacobson did not submit sufficient evidence to support an equity claim under either test.

THE APPEAL BOARD ORDERS the assessment of the Jacobson Companies property located at 1401 Tri View, Sioux City, Iowa, is affirmed with a total value of \$1,185,400, allocated as \$143,100 in land value and \$1,042,300 in improvement value as of January 1, 2011.

Dated this 22nd day of April, 2013.


Stewart Iverson, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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| Certificate of Service | |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>April 22, 2013</u> . | |
| By: | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other |
|  | |
| Signature _____ | |